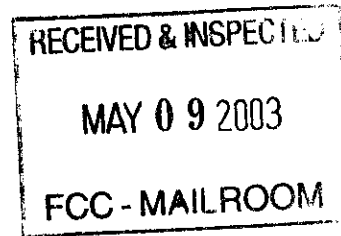


Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of

Reclassification of License
Of Station KMMZ-FM,
Enid, Oklahoma

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RM-10692

ORDER TO SHOW CAUSE

Adopted: May 7, 2003

Released: May 9, 2003

Comment Date: June 30, 2003

By the Assistant Chief, Audio Division:

1. Before the Audio Division is a Petition for Rule Making filed by Cobra Communications, Inc., requesting the allotment of Channel 244A at Harper, Kansas, as that community's first local FM service. To accommodate that allotment, petitioner also requests the reclassification of Station KMMZ-FM, Channel 245C, Enid, Oklahoma, to specify operation on Channel 245C0. Station KMMZ-FM currently operates on Channel 245C with an ERP of 100 kilowatts at 442 meters HAAT. The station is below the minimum Class C antenna height requirements of 450 meters HAAT. Because Station KMMZ-FM is operating below minimum Class C standards, it is subject to reclassification as a Class C0 facility.¹

2. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest. Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.²

3. The reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments.³ In instances where an initiating petition proposes both to amend the FM Table of Allotments and to reclassify a Class C FM station, the Commission must issue an order to show cause, as set forth in Section 73.3573, note 4, of the Commission's rules. In such circumstances, a notice of proposed rule making will be issued only after the reclassification issue has been resolved.

4. A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a

¹ See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

² See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act 2 FCC Rcd 3327 (1987).

³ Second Report and Order, *supra*, and 47 C.F.R. § 1.420, n. 2.

Class C FM station must certify that no alternative channel is available for the proposed service.⁴ We reiterated that requirement in a recent Order to Show Cause.⁵ In that order, we stated that, in the future, petitions for rule making that seek reclassification of an existing FM channel from Class C to Class C0 will be dismissed if the requisite certification is not included. Moreover, we announced that pending petitions that do not include such certification must be amended to comply with the Commission's rules, or the petitions will be subject to dismissal. Finally, we specified in the *Wichita OSC* that certifications for pending petitions may be submitted within 30 days from the release of that order.⁶ At the end of that 30 day period, any initiating petition that does not contain the required certification will be dismissed. In this instance, petitioner did not provide such certification; nonetheless, in view of the recent issuance of the *Wichita OSC*, Commission staff engineers have analyzed petitioner's request and determined that there is no alternative channel available at Harper, Kansas.

5. A Class C0 reclassification of Station KMMZ-FM at Enid, Oklahoma, would accommodate petitioner's request to allot Channel 244A to Harper, Kansas, as that community's first local service. Petitioner's request for reclassification therefore has sufficient public interest benefit to warrant the issuance of an order to show cause. Accordingly, we shall issue this *Order to Show Cause* directed to Champlin Broadcasting, Inc. ("Champlin"), licensee of Station KMMZ-FM, Enid, Oklahoma. Champlin is required to show cause why its authorization should not be modified to specify operation on Channel 245C0 in lieu of Channel 245C at Enid, Oklahoma.

6. The license for Station KMMZ-FM (File No. BLH-20001211ACI) at Enid, Oklahoma, can be modified to Channel 245C0 at its current authorized transmitter site, located at coordinates 35-58-50 NL and 97-41-42 WL. Pursuant to Section 1.87 of the Commission's Rules, Champlin may, not later than June 30, 2003, file a written statement showing with particularity why its license (File No. BLH-20001211ACI) should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Champlin to furnish additional information. If Champlin raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referenced above, Champlin will be deemed to have consented to the modification as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modification is found to be in the public interest.

7. If Champlin chooses to seek authority to modify its license to increase antenna height to at least 451 meters HAAT, it must express its intention to file the necessary application by the comment date specified in this *Order*. It also must file an acceptable application for a construction permit for Station KMMZ-FM with the Commission within 180 days subsequent to the show cause comment due

⁴ See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

⁵ *Reclassification of License of Station KRBB-FM, Wichita, Kansas*, RM-10691 (released April 30, 2003) ("*Wichita OSC*").

⁶ The *Wichita OSC* was released on April 30, 2003, and thirty days from that date is May 30, 2003.

date (June 30, 2003). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 244A at Harper, Kansas, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Champlin for Channel 245C as specified herein, under this procedure. If the construction is not completed as authorized, Station KMMZ-FM is subject to automatic reclassification as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 244A at Harper, Kansas, may be refiled.

8. IT IS THEREFORE ORDERED, That Champlin Broadcasting, Inc. show cause why its authorization for station KMMZ-FM (File No. BLH-20001211ACI) should not be modified to specify operation on Channel 245C0 in lieu of Channel 245C at Enid, Oklahoma, and

9. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to the following counsel for Champlin Broadcasting, Inc., licensee of KMMZ-FM, Enid, Oklahoma:

Andrew S. Kersting, Esq.
Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526

10. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. All envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

11. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202)418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau